

25th Anniversary Symposium



Facility Accessibility and the Architectural Barriers Act of 1968

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March 29, 2016



Topics to be Covered

I. Legal Authority

II. ABA Accessibility Guidelines and Standards

III. Most Common Barriers to Accessibility

IV. Additions and Leases

V. ABA Enforcement Process



Part I:
Legal Authority



The Architectural Barriers Act of 1968 (ABA)

Requires that certain buildings and facilities be accessible to persons with disabilities – specifically buildings and facilities:

1)Intended for use by the public **or** may result in the employment or residence therein of individuals with physical disabilities;

2)Which were:

(a) **constructed or altered** by or on behalf of the United States,

(b) **leased**, in whole or in part by the United States, or

(c) **financed** in whole or in part by a grant or loan made by the United States;

<u>**after August 12, 1968 (date of ABA enactment).**</u>





ABA-Covered Facilities

Examples:

- Federal office buildings
- United States Post Offices
- HUD multi-family residential units
- Federal prisons and courthouses
- Social Security Administration offices
- National Parks, Monuments, Forests
- DoD housing, commissaries, exchanges





Military Exclusion

- The ABA excludes any building or facility on a military installation designed and constructed primarily for use by able bodied military personnel.
- Includes Reserve and National Guard facilities owned by or under the control of the Department of Defense.
- Nevertheless, according to DoD’s Policy Memorandum Regarding the ABA (discussed on Slide 15 below), compliance with accessibility standards is “recommended to the maximum extent that is reasonable and practicable without degrading the facility's military utility.”



ABA-Covered Facilities

While Federal facilities built before 1968 are <u>not</u> covered, **alterations** and **leases** undertaken after 1968 <u>may trigger</u> ABA coverage.





Section 502 of the Rehabilitation Act of 1973

Authorizes the Access Board to ensure that buildings under its jurisdiction are in compliance with the ABA by:

1. Establishing and maintaining minimum guidelines for standards issued by GSA, DoD, HUD and USPS; and
2. Enforcing those standards.





Note about Sections 501 and 504 of the Rehabilitation Act of 1973

- The focus of the ABA and Section 502 is to ensure that Federally financed buildings are free of structural barriers to accessibility.
- The focus of Sections 501 and 504 of the Rehabilitation Act is on ensuring that individuals with disabilities are not discriminated against in Federal employment (Section 501) and Federally funded programs and services (Section 504).





Sections 501 and 504

- Implicate operational, procedural, and policy issues, e.g., emergency evacuation plans, use of service animals, parking enforcement/permitting, employment issues, etc.;
- Handled through EEO or reasonable accommodation processes;
- Not covered by the ABA.

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Part II:
ABA Accessibility Guidelines and Standards



ABA Accessibility Guidelines and Standards



- The Access Board issued the Architectural Barriers Act Accessibility Guidelines (ABAAG) (36 CFR Part 1191, Appendices C and D) in a Final Rule in 2004 (69 FR 44084, 44151, 44223-44440, July 23, 2004).
- The General Services Administration (GSA) adopted the Guidelines as the “ABA Accessibility Standard (ABAAS)” in a Final Rule in 2005 (70 FR 67786, 67846, November 8, 2005) (effective 5/8/2006).
- See Federal Management Regulation 102—76.65 (41 CFR 102—76.65).





ABA Accessibility Guidelines and Standards

The GSA ABA Standards cover the vast majority of Federal Executive Branch agencies.

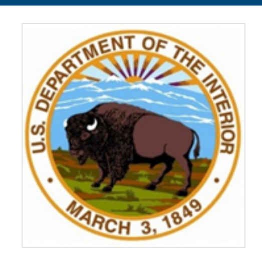




























ABA Accessibility Guidelines and Standards

- The U.S. Postal Service (USPS) adopted the Guidelines as the "Postal Service Standards for Facility Accessibility" in a Final Rule in 2005 (70 FR 28213, 28214, May 17, 2005) (effective 10/1/2005).
- See 39 CFR Part 254.







ABA Accessibility Guidelines and Standards

- The Department of Defense (DoD) adopted the Guidelines as its “DoD Standards” in a Policy Memorandum from the Deputy Secretary of Defense dated 10/31/2008 (effective immediately).







ABA Accessibility Guidelines and Standards

- The Department of Housing and Urban Development (HUD) still uses the Uniform Federal Accessibility Standards (UFAS), which it adopted in October 1984.
- See 24 CFR Part 40.







Modifications and Waivers

The ABA does give agencies authority to **modify or waive the accessibility standards** for buildings and facilities on a case-by-case basis.

- Must be approved by agency head or designee.
- Each agency has their own process for handling waivers and modifications.
- *Very rarely* invoked.
- Board has authority to review all waivers and modifications.



Part III: Most Common Barriers to Accessibility



Most Common Barriers to Accessibility

- Accessible parking
- Accessible routes
- Entrances
- Interior doors
- Toilet rooms





Accessible Parking: Minimum Number of Accessible Parking Spaces

Parking Facility Total	Minimum Number of Accessible Spaces		
	Standard	Van*	Total (Standard + Van)
1 - 25	0	1	1
26 - 50	1	1	2
51 - 75	2	1	3
76 - 100	3	1	4
101 - 150	4	1	5
151 - 200	5	1	6
201 - 300	5	2	7
301 - 400	6	2	8
401 - 500	7	2	9
501 - 550	9	2	11**
551 - 600	10	2	12
601 - 650	10	3	13
651 - 700	11	3	14
701 - 750	12	3	15
751 - 800	13	3	16
801 - 850	14	3	17
851 - 900	15	3	18
901 - 950	15	4	19
951 - 1000	16	4	20
1001 -1100	17	4	21***
1101 - 1200	18	4	22
1201 - 1300	19	4	23
1301 - 1400	20	4	24
1401 - 1500	20	5	25
1501 - 1600	21	5	26
1601 - 1700	22	5	27
1701 - 1800	23	5	28
1801 - 1900	24	5	29
1901 - 2000	25	5	30

* At least 1 of every 6 accessible spaces (or fraction of 6 accessible spaces) must be van accessible.

** 501-1000: 2% of total.

*** 1001 and over: 20 PLUS 1 for every 100 spaces (or fraction of 100 spaces) over 1000.

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Accessible Parking: Minimum Number of Accessible Parking Spaces

- 10% of patient and visitor parking spaces provided to serve hospital outpatient facilities shall be accessible.
- 20% of patient and visitor parking spaces provided to serve rehabilitation facilities specializing in treating conditions that affect mobility and outpatient physical therapy facilities shall be accessible.
- If at least one space is provided for each dwelling unit, then at least one accessible space is required for each mobility accessible unit. If the total number of resident spaces is less than the total number of units, accessible parking is based on the scoping table.









Accessible Parking: Dimensions for Car Parking Spaces

Car parking spaces shall be 96 inches wide minimum.

full length of parking space

96” min

60” min

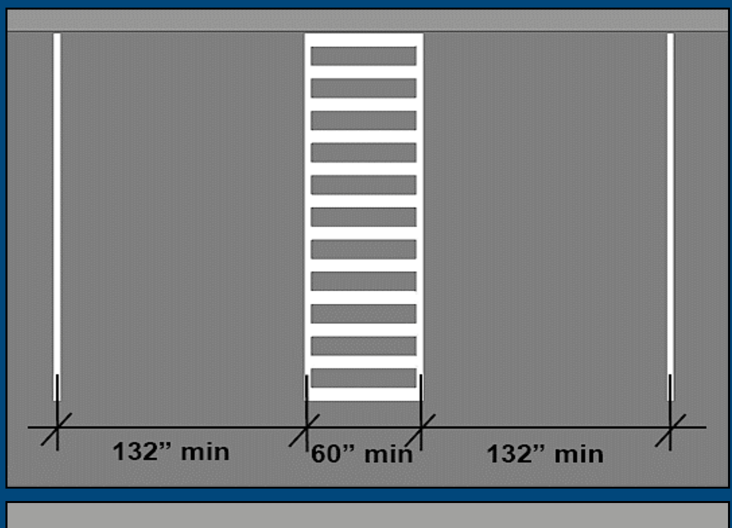
96” min

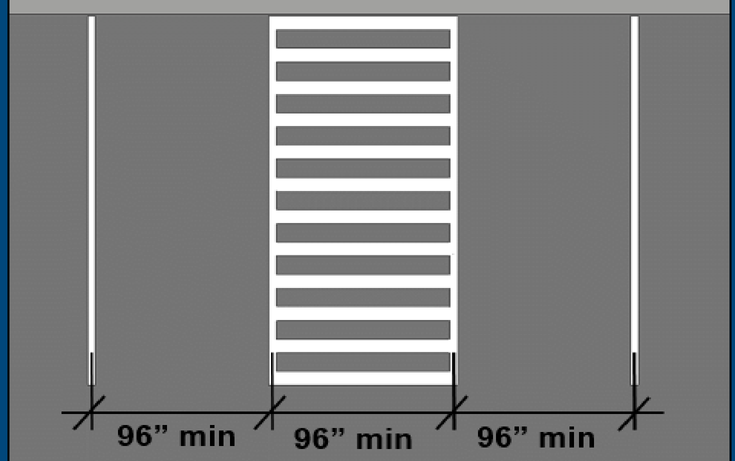


Accessible Parking: Dimensions for Van Parking Spaces

Van parking spaces shall be 132 inches wide minimum.

Exception: Van parking spaces shall be permitted to be 96 inches wide minimum where the access aisle is 96 inches wide minimum.









Accessible Parking: Adjacent Access Aisle

- An access aisle is required on either side of the parking space and must be marked to discourage parking in it.
- Two spaces can share one aisle.
- Access aisles cannot overlap vehicular ways.
- Spaces and access aisles must meet requirements for floor and ground surfaces and cannot have changes in level other than slopes not exceeding 1:48.

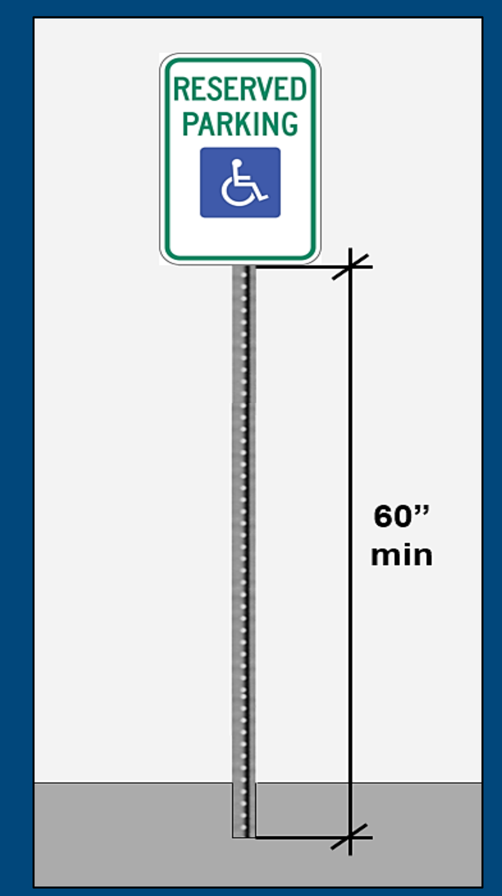
full length of parking space
area to be marked
60 min
1525





Accessible Parking: Identification

- Accessible spaces must be identified by signs with the International Symbol of Accessibility (ISA). No other text or content is required by the Standards.
- Signs must be at least 60" high measured to the bottom edge so that they are visible while vehicles are parked in a space.
- Signs can be on posts, or where feasible, on walls or suspended from ceilings (an 80" minimum headroom clearance is required at signs suspended above circulation paths).
- ISA designations on the parking surface, even if required by a state or local



Signs identifying van spaces must include the term "van accessible." The designation is informative, not restrictive, *i.e.*, such spaces are not limited to vans only. It can be included on the main designation sign or provided on a separate sign.









Accessible Parking

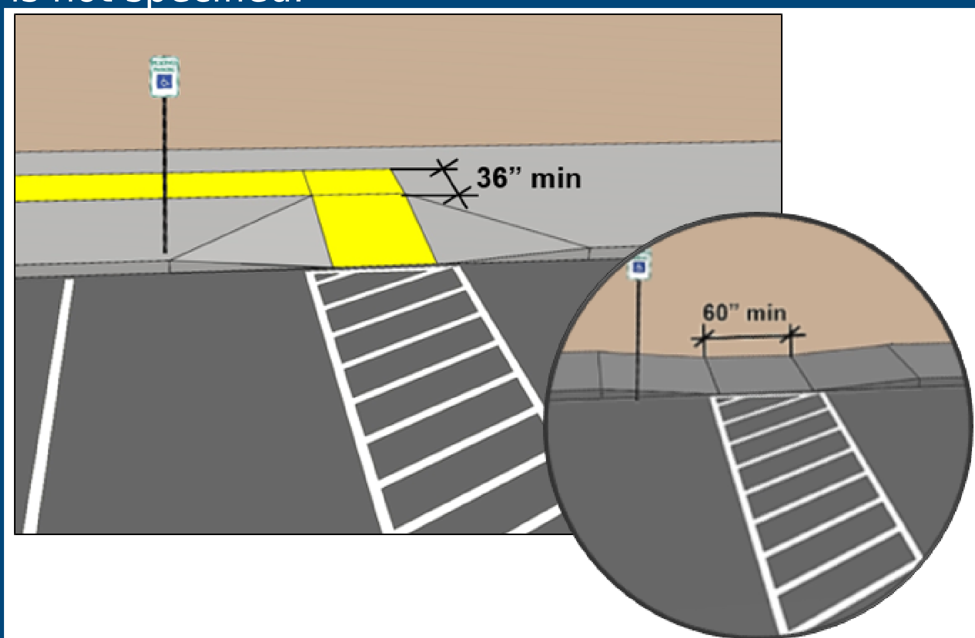
Note: Accessible spaces required for one parking facility can be located in another if doing so results in substantially equal or better access in terms of travel distances, parking fee, or user convenience, such as protection from weather, better security, and lighting. The minimum number must still be determined separately for each parking facility.

- Accessible parking spaces are required for each parking facility on a site, such as parking lots, as well as garages, decks, and other parking structures.
- On sites with multiple parking facilities, the minimum number of accessible spaces must be calculated separately for each parking facility instead of on the combined total.
- Parking facilities are to be treated separately if they are: structurally different (*e.g.*, surface lot vs. garage), dedicated to different facilities on a site, segmented and separated (*e.g.*, by fencing or guard rails), or separated by streets or roadways (as



Accessible Parking: Relationship to Accessible Routes

Where parking serves multiple entrances to a facility, accessible spaces are to be **dispersed** among accessible entrances. (If the number of accessible entrances exceeds the number of accessible spaces, additional accessible spaces are not required). Accessible parking spaces **must be located on the shortest accessible route to an accessible entrance**, relative to other spaces in the same parking facility. A maximum travel distance is not specified.



- Accessible routes must connect directly to access aisles.
- Curb ramps cannot protrude into access aisles which must be level (1:48 max.) to accommodate wheelchair transfers and vehicle ramps or lifts).
- Bollards, signs, and other elements, cannot be located in the access aisle or reduce the minimum clear width of access routes. Spaces and aisles must be designed so that parked vehicles also do not reduce the required clear width of accessible routes.

A landing at least 36" deep is required at the top of curb ramps. Where space for curb ramps is limited, including in alterations, parallel ramps can provide an alternative.



Part IV:
Additions and Leases

Additions

- Where an addition to a building is constructed, the following elements must be altered in the existing building when they serve the addition, but are not provided in it -
  - Accessible Route
  - Entrance
  - Toilet and Bathing Facilities
  - Public Telephones
  - Drinking Fountains

Note: There is NO cost cap for these items





Leased Facilities

- "Buildings and Facilities for which new leases are negotiated by the Federal government…" (§F202.6)
- Joint use areas
- Accessible route
- Toilet facilities
- Parking (where provided)





Leased Facilities

- Other elements & spaces where provided
- Drinking fountains
- Fire alarms
- Public telephones
- Dining and work surfaces
- Assembly areas
- Sales and service counters
- Depositories, vending and change machines





Leased Facilities

Accessible routes required to connect to Primary Function Areas

(as defined by the Administrator of the General Services Administration, the Secretary of Defense, the Secretary of Housing and Urban Development, and the United States Postal Service).





Leased Facilities

Primary Function Area -

- “An area that contains a major activity for which the leased facility is intended”
- Includes: areas where services are provided to customers or the public, offices and other work areas





Leased Facilities

Disproportionality does NOT apply in alterations completed by a Federal entity to meet the leasing requirements of §F202.6





Leased Facilities

Definitions

- **Lease:** Any agreement which establishes the relationship of landlord and tenant.
- **Joint Use:** Interior or exterior rooms, spaces, or elements that are common space available for use by all occupants of the building. Joint use does not include mechanical or custodial rooms, or areas occupied by other tenants.





Leased Facilities

Exceptions –

- Facilities used by Federal officials servicing disasters
- OR leases for ONLY 12 months or less provided that the lease may not be extended or renewed





Existing Elements

ABAAG F203.2 Existing Elements

- Elements in compliance with an earlier standard issued pursuant to the Architectural Barriers Act or Section 504 of the Rehabilitation Act of 1973, as amended shall not be required to comply with these requirements unless altered.





Elevator Requirements

F206.2.3 Multi-Story Buildings and Facilities

- Requires vertical access in multi-story buildings and facilities
- NO exception for buildings with less than three stories or less than 3000 square feet per story (as included for entities covered under title III of the ADA)



Part V:
ABA Enforcement Process



ABA Complaint Process

- Complaints that facilities are not accessible are handled by 2 Compliance Specialists in the Compliance and Enforcement Section of the Office of the General Counsel.
- Complaints are resolved through an informal, cooperative, and non-adversarial process.
- Complaints are handled in a multi-step process.





Starting the Complaint Process: When a Complaint is Filed

To start an investigation, Compliance Specialists need

- a written complaint with:
- the name and address of the facility;
- complaint allegations (a brief description of the access problems or barriers); and
- if available, additional information about the facility, such as when it was built or known sources of Federal funding; photographs are helpful but not necessary.

Note: anyone can file an ABA complaint





How to File a Complaint

- A complaint must be submitted in writing, in one of three ways: 1) online complaint form; 2) e-mail to enforce@access-board.gov; or 3) by mail or fax.
- No special form is required.
- Personal information, including one's name, is optional and, where provided, is not released without the written permission of the complainant.
- Complaints may also be filed anonymously.
- Enforcement staff acknowledges receipt of complainant’s initial filing within 10 days.





How are ABA Complaints Handled?

Step 1. Conduct a Preliminary Analysis

Step 2. Open an Investigation

Step 3. Determine Jurisdiction

Step 4. Determine Standard and Violation

Step 5. Corrective Action Plan

Step 6. Monitor Corrective Action

Step 7. Close the Complaint



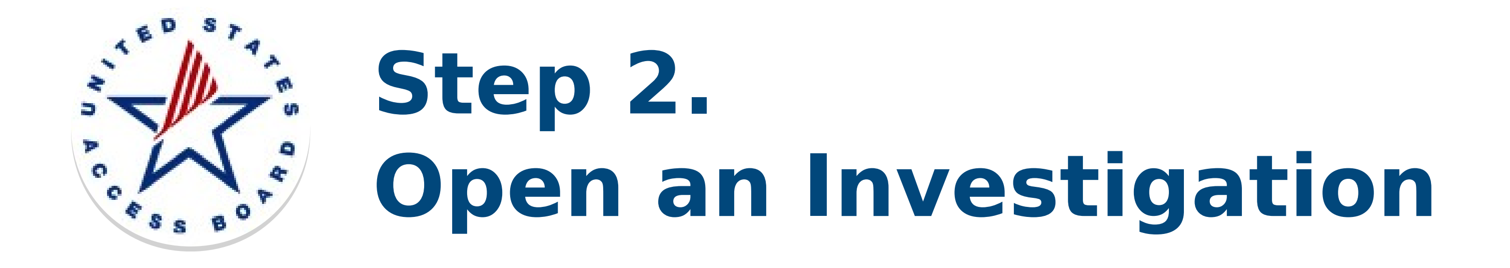


Step 1. Conduct a Preliminary Analysis

Staff first determine whether the complaint presents allegations of accessibility barriers.

- **If no,** staff inform the complainant accordingly, and, if appropriate, advise the complainant of another accessibility law that may apply and provide appropriate referral information.
- **If yes,** staff open an investigation (Step 2).





Step 2. Open an Investigation

- Notify the appropriate agency with a letter of inquiry, and obtain jurisdictional and other information about the facility.
- Send the complainant an acknowledgement letter.





Step 3. Determine Jurisdiction

Staff **determine whether the facility or element is covered by the ABA**.

1. Facility is intended for use by the public, or may result in the employment or residence therein of individuals with physical disabilities;

2. Facility was either:

   (a) constructed or altered by or on behalf of the United States;

   (b) leased, in whole or in part by the United States; or

   (c) financed in whole or in part by a grant or loan made by the United States

   after the effective date the ABA (August 12, 1968).

If one or more of these is not met, case is closed but referral information may be provided and agency may still choose to take voluntary corrective action.





Step 4. Determine if a Violation has Occurred

If jurisdiction is established, staff then:

- Determine the applicable Federal accessibility standard;
- **Determine if the allegations amount to a violation of the applicable standard**.

If not, a referral may be made and/or the agency may voluntarily choose to address the issue.

If a violation exists, go on to Step 5 (Corrective Action).



Step 5.
Corrective Action Plan

If there is a violation of the applicable standard, a corrective action is required.

Corrective Action Plan:

- Contains a detailed description as to how the architectural barriers will be remediated.
- Contains a specified timeframe for plan implementation.
- Enforcement staff can provide assistance in the development of the plan, if needed.
- Enforcement staff approve the proposed plan.



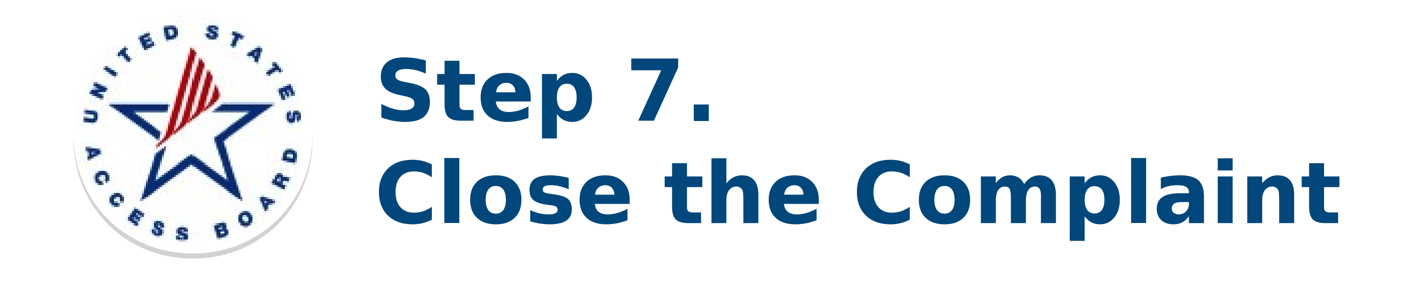


Step 6. Monitor Corrective Action

Once the corrective action plan has been approved:

- Staff notify the complainant and agency when the corrective action plan is approved; and
- Staff monitor implementation of the corrective action plan until the agency provides verification of completion (e.g., official statements, photographs, and/or architectural or dimensioned drawings).





Step 7.
Close the Complaint

After verifying that the agency’s corrective actions are completed:

- notify the complainant in writing of the final actions taken; and
- give them 15 days to provide contradictory information.
- If none, staff close the case and notify the agency.



Questions?



For More Information

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